

## INTERNAL AUDIT REPORT



### Affordable Housing (Shared Ownership) Monitoring 2017/18

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|--------------------|---------------|-------------------|--|
| <b>Issue Date:</b> | 14/09/2017    | <b>Issued to:</b> | Dave Brown, Director for Place   |
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|                    |               |                   | Cllr O Hemsley, Deputy Leader and Portfolio Holder for Growth, Trading Services and Resources (except Finance) |

# Affordable Housing (Shared Ownership) Monitoring 2017/18

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## 1. Introduction

Members of the Audit and Risk Committee requested a review of the Council's arrangements for monitoring shared ownership properties to ensure any related conditions or restrictions are complied with when the dwellings are re-sold. Initial discussions with management determined that the Council does not undertake any proactive monitoring of this nature and it was therefore agreed that the review would be undertaken as a consultancy exercise to determine what, if any, monitoring is undertaken by neighbouring councils. This information would be used to identify any common or good practice monitoring procedures that the Council may wish to adopt.

The review also examined any complaints and compliance issues raised over the last 18 months to consider the adequacy of the Council's response and inform an assessment of the level of risk.

## 2. Summary of findings

Affordable Housing is defined in the National Planning Policy Framework as Social rented, affordable rented and intermediate housing (including shared ownership), provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices.

The Council's Planning Policy team works with partners to build affordable homes, through making effective use of the planning system and through partnership working with developers and housing associations (Registered Providers). Requirements for affordable housing are set out in the Council's Core Strategy and related policies, including the Housing and Homelessness Strategy. These currently require 30% affordable housing to be provided on sites of 11 or more homes, subject to viability. Specific requirements are assessed as part of the development control process and included in a legally binding 'section 106' agreement, stating which units will be affordable, the type of affordable housing and how occupiers will be selected (e.g. through application of the local connection requirements in the Housing Allocation Policy).

As well as conditions imposed by the Council in section 106 agreements, affordable housing developments provided by Registered Providers are generally subject to capital grant conditions imposed by the Homes and Communities Agency (HCA), together with associated regulations. For example, some rural shared ownership schemes restrict the level of equity that can be purchased to 80% for developments on rural exception sites and schemes delivered in settlements with a population of 3,000 or less. Some schemes provide for the repurchase of the property by the Registered Provider once the share purchased exceeds 80% and the shared owner wishes to sell. Restrictions on both the maximum equity and the sale of shared ownership properties are aimed at retaining affordable housing in rural areas in perpetuity.

When a new development is started in Rutland the Development Monitoring Inspector monitors progress on site and the Housing Strategy and Enabling Officer tracks the completion of individual dwellings on a spreadsheet to ensure compliance with the agreed conditions. Progress against targets is also monitored and reported through the Housing Services Review meeting (which includes the Portfolio Holder), the corporate performance monitoring system and quarterly performance reports to Cabinet.

Due to limited resources, the Council currently focuses its efforts on the initial development stage to ensure that schemes are compliant with planning requirements at the outset. There is no proactive monitoring of resales to ensure ongoing compliance with the relevant conditions; reliance is placed on Registered Providers and solicitors acting on behalf of vendors and purchasers to identify and comply with the relevant requirements at the resale stage. This is a strategic decision based on management's assessment of the relative risk and associated control framework. Most affordable housing in the county is provided by Registered Providers which are subject to close government scrutiny and regulation via the HCA.

In March 2016 the Council received an email and letter from the Chairman of North Luffenham Parish Council seeking assurances regarding the 'affordable housing status' of a shared ownership property in the area that was being marketed for resale. The property in question was part of a development on land originally provided by the Parish Council and a number of assurances were sought regarding ongoing compliance with the conditions in the section 106 agreement, including confirmation that the local connection criteria and specified equity percentage had been properly applied. After making enquiries with Spire Homes, officers were able to provide the necessary assurances. However, as a result of this case questions were raised about whether the adoption of a more proactive approach to monitoring ongoing compliance would be beneficial, particularly in cases where the Parish Council has a direct interest in the development.

Internal audit requested information on all cases over the past 18 months where questions or complaints had been raised in respect of shared ownership affordable housing. This was done to consider the adequacy of the Council's arrangements for responding to such enquiries and to inform an assessment of the potential scale of the issue and level of risk involved.

Other than the North Luffenham case referred to above, officers provided information to indicate that a further five enquiries had been received over the 18 month period. Specifically:

- three cases requesting documentation, information or advice;
- one request from a Registered Provider seeking Council approval to disregard the local connection criteria (having tried but failed to identify suitable local applicants) in respect of a proposed resale of a shared ownership property in Cottesmore; and
- one request from a solicitor acting on behalf of a Registered Provider seeking confirmation of compliance with a section 106 agreement related to properties in Exton.

One of these cases remains ongoing but, based on Internal Audit's review of the relevant correspondence, all were dealt with and resolved in an appropriate manner and none involved formal enforcement action. The number and type of cases identified provides an indication that the scale of the issue and associated risks are unlikely to be significant, although it is not possible to provide a definitive assessment based solely on data related to enquiries and complaints.

Based on discussions and correspondence with neighbouring councils (see appendix 1), two undertake proactive monitoring, two adopt a solely reactive approach, one applies no conditions or restrictions to shared ownership dwellings and one did not fully respond to Internal Audit's enquiries. The two councils that undertake proactive monitoring do so by inclusion of specific conditions and covenants in the related section 106 agreement and/or property deeds requiring the Council to be formally notified of any proposed resales. This enables the Council to seek formal assurances and evidence of ongoing compliance with any relevant conditions prior to approving the resale.

It has been suggested that a similar approach could be applied to relevant properties and developments in Rutland in the future. The adoption of a system that requires the Council to be notified of all proposed resales, together with written assurances and evidence of compliance with the relevant affordable housing conditions, would provide a more robust basis for ensuring the sustainability of affordable housing in the County. Such a system would also enable the Council to share information on proposed resales with Parish Councils in relevant cases and provide evidence to support any future enforcement action, if necessary. Officers have indicated that such a system could work well and would not be too onerous from a resource perspective but would require consultation with some of the more active Registered Providers to see how it linked to the standard HCA lease and lenders' requirements (**see recommendation 1**).

### **3. Action Plan**

The Action Plan at appendix 2 includes a recommendation to address the findings identified by this review. If accepted and implemented, this should positively improve the control environment and aid the Council in effectively managing its risks.

### **4. Limitations to the scope of the audit**

This is a consultancy review and an opinion is therefore not provided on the effectiveness of the Council's arrangements. The Auditor's work does not provide any guarantee against material errors, loss or fraud. It does not provide absolute assurance that material error, loss or fraud does not exist.

**BENCHMARKING**

| Council           | Response  |
|-------------------|---|
| Local Authority 1 | <ul style="list-style-type: none"> <li>• The Council has a ‘nomination agreement’ attached to all ‘shared ownership’ and ‘shared equity’ properties.</li> <li>• The nomination agreement includes local connection criteria and sometimes age criteria.</li> <li>• Section 106 agreements require the Council to be notified of all potential purchases of shared ownership/shared equity dwellings on first sale <b>and</b> any subsequent resales.</li> <li>• The developer/Registered Provider/owner is required to demonstrate compliance with the nomination agreement both on first sale and on resale.</li> <li>• The Council must approve the sale of all shared ownership and shared equity properties on first sales.</li> <li>• The Council must approve the subsequent resales of all shared equity properties.</li> <li>• A clause is placed in the deeds of shared equity properties requiring compliance with the nomination agreement on resale which must be demonstrated and a letter obtained from the Council agreeing to the resale.</li> <li>• Similar requirements are specified in the deeds of affordable properties sold at 80% of OMV (not shared).</li> <li>• Registered Providers are also required to inform the Council of any additional percentage purchases and if the applicant staircases out or reaches the maximum share (80% for rural exception sites).</li> <li>• Most re-sales are notified to the Council but officers monitor what properties are coming up for sale and if any are identified that have not been notified the Council contacts the agents, owner and Registered Provider (if applicable).</li> <li>• Placing the nomination and sale requirements in the deeds (shared equity and 80% OMV properties) is easier to monitor than relying on the s106 agreement alone and has not proved too onerous.</li> </ul> |
| Local Authority 2 | <ul style="list-style-type: none"> <li>• No proactive monitoring of ongoing compliance with conditions at the resale stage.</li> <li>• Monitoring is focused on the initial development/delivery stage.</li> <li>• Reliance is placed on Registered Providers partners to ensure ongoing compliance as the Council does not have sufficient resources to undertake proactive monitoring but will respond to queries or complaints.</li> </ul>   |

| Council           | Response   |
|-------------------|--|
| Local Authority 3 | <ul style="list-style-type: none"> <li>• Conditions vary from development to development but are specified in the relevant s106 agreement and/or property deeds and lease agreements.</li> <li>• Reliance is placed on Registered Providers and solicitors identifying the relevant conditions and notifying the Council of proposed resales.</li> <li>• For shared ownership dwellings the s106 agreement requires the registered provider to notify the Council of the resale. The Council will then seek evidence and assurances of compliance with the relevant conditions.</li> <li>• Affordable properties sold below market value include a covenant in the deeds requiring the Council to be notified of the sale. The Council seeks confirmation of compliance with the relevant conditions (e.g. local connection) before approving the sale.</li> </ul>   |
| Local Authority 4 | <ul style="list-style-type: none"> <li>• No pro active monitoring of shared-ownership beyond the initial sale.</li> <li>• Reliance is placed on the detail included in the S106 agreement and the lease.</li> <li>• These requirements should be picked up by the solicitors acting for the seller and/or purchaser.</li> <li>• The Council frequently receive requests from Registered Providers involved with resales to ask for approval of a purchaser who does not quite meet the local connection criteria. The Council takes a fairly strict line and ask for the property to be advertised on its own Choice Based Lettings system and ask for details of how long it has been up for sale.</li> <li>• The Council has occasionally relaxed the local connection requirement when the purchaser lives in a neighbouring village / local Authority.</li> <li>• The Council has never relaxed staircasing restrictions as this is considered a fundamental principle.</li> </ul> |
| Local Authority 5 | <ul style="list-style-type: none"> <li>• The Council has not delivered any rural exception schemes and do not apply a local connection criteria to any of the new affordable housing which is delivered in the area.</li> <li>• There are some designated protected areas within this LA area and at the request of Registered Providers we are willing to ask HCA to remove the designation and the restriction on staircasing on those affordable homes.</li> <li>• We ask Registered Providers to enter into Nomination Agreements for rented housing only and not for shared ownership housing as we are content that this is allocated via referrals from the Help To Buy agents.</li> </ul>  |
| Local Authority 6 | <ul style="list-style-type: none"> <li>• The Housing Strategy Team does not undertake any monitoring but believes some monitoring is undertaken by the Councils s106 Monitoring Officer. Followed up but no further response received.</li> </ul>  |

**Appendix 2**

**ACTION PLAN**

| Rec No. | ISSUE  | RECOMMENDATION   | Management Comments  | Priority              | Officer Responsible                          | Due date             |
|---------|--|--|--|-----------------------|--|----------------------|
| 1       | <p>The Council does not currently undertake any proactive monitoring of ongoing compliance with affordable housing conditions when shared ownership dwellings are resold. Whilst no evidence has been identified of a significant incidence or risk of non-compliance, the implementation of basic monitoring controls would provide greater assurance over the sustainability of affordable housing in the County and provide evidence to support any future enforcement action.</p> <p>Such controls would also allow the Council to share information on proposed resales with Parish Councils and enable consideration of any local marketing of the property.</p> | <p>Consider the inclusion of an additional clause in future section 106 agreements requiring the Council to be notified of the proposed resale of shared ownership properties together with the provision of evidence and assurances confirming compliance with relevant conditions.</p> | <p>Agreed. Consideration will require legal input on changes to 106s and consultation with Registered Providers.</p> | <p>●<br/>Standard</p> | <p>Housing Strategy and Enabling Officer</p> | <p>31 March 2018</p> |



## INTERNAL AUDIT CONSULTANCY REPORT



### SEND Personal Budgets/Direct Payments Review

|                           |                               |                          |  |
|---------------------------|-------------------------------|--------------------------|--|
| <b><i>Issue Date:</i></b> | 10 <sup>th</sup> January 2018 | <b><i>Issued to:</i></b> | Bernadette Caffrey – Head of Early Intervention, SEND and Inclusion      |
| <b><i>Author:</i></b>     | Ellie Clarke – Senior Auditor |                          | Kevin Quinn – Service Manager for Early Intervention, SEND and Inclusion |
|                           |                               |                          | Tim O'Neill – Director for People  |

## **SEND PERSONAL BUDGET/ DIRECT PAYMENTS (2017/18)**

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### **5. Introduction**

A recent Ofsted and CQC (Care Quality Commission) area inspection of the SEND service, assessed Rutland's effectiveness in implementing the disability and special educational needs reforms as set out in the Children and Families Act. The outcomes of this inspection were positive overall, and one area which was identified as needing development was around Personal Budgets. As such, Internal Audit has carried out a consultancy style review of the personal budgets arrangements currently in place and has sought to develop ideas on best practice within this area in order to increase the uptake of and monitor effectively, personal budgets and direct payments within the SEND service.

### **6. Summary of findings**

Any parent or young person can request a personal budget for SEND if their child has an education, health and care (EHC) plan. As a part of the EHC plan, a personal budget will detail the amount of money which is required to meet the outcomes of the plan. It is designed in order to give families both the choice and control on how the provision in the EHC plan is delivered in a way which best meets their individual need.

A personal budget can be set up in a number of ways. One way for a young person or family to use their budget is through the receipt of direct payments. A direct payment is where the money is given directly to the family for them to manage on their own in order to meet their assessed needs as laid out in the EHC plan in the way that they see as the most effective way for them. Direct payments are made in lieu of direct provision of some or all of the service, meeting the assessed need of either the child or the family or both. The Council may make direct payments to the following individuals:

- Persons with Parental Responsibility for a disabled children (as defined by the Children Act 1989);
- Some disabled young people aged 16-17 years, following a Mental Capacity Assessment, who meet the threshold for a service.

Currently, the Council only has one fully established personal budget within the EHC Plans, however the inspection process determined that the Council does, in fact, have 61 young people and families who receive direct payments, through the Aiming High service, but it is not currently recorded as a Personal Budget.

It is vital to develop service user understanding so that they are aware of the options available to them in terms of personal budgets and direct payments, as well as ensuring that the requirements of the service users are fully understood from the outset.

Currently, the only full personal budget through an EHC Plan, that is in place and working effectively was established due to the proactive nature of the parent who knew that they had the rights to request a personal budget, rather than through Council promotion. If the Council is to encourage uptake of Direct Payments within the EHC Plan process then more has to be done to promote the uptake of personal budgets as an option. As such, Internal Audit has developed a proposed guidance sheet, attached in appendix 2, which could act as a fact sheet to young people and parents around the options available to them. As the Local Offer details the services and support available to children with a special educational need and /or disability, this would act as a logical place to hold this information and this is an approach adopted by some other county councils reviewed. Given that the Council currently does very

little to encourage the use of personal budget, this site and the guidance document would act as a good basis for widening the knowledge base of a child young person or a parent /carer, who have the right to request a personal budget if they so choose. As a further way to encourage uptake to those already with an EHC Plan, , Internal Audit recommends that this document is used as part of the annual EHCP review which is undertaken with each child or young person and their family. Whilst informal conversations with the SEND case workers or social workers is also a good way to encourage the uptake of Direct Payments/Personal Budget, the use of a document gives a clear outline of the benefits of taking up this choice.

Currently, there is no monitoring process in place for personal budgets within the SEND service. As there is currently only one service user which has a full personal budget, this is monitored in an informal way, through their ENC Plan with officers simply knowing the costs needed and can monitor on an ad hoc basis. Given that the SEND Service currently has 220 children and young people with an EHC Plan, with an average of 20 new children and young people each year, a more rigid monitoring process would have to come into place if further direct payments were to be introduced. This will also re-emphasise the importance of appropriately assessing the needs of individuals as the EHC plans will act as the main document against which the use of direct payments will be assessed to ensure they are meeting the needs and achieving the outcomes for a child or young person. This is a lesson that has been learnt by other county councils were direct payments have been rolled out, as without a clear and unambiguous EHC plan in place, monitoring use and querying suspected misuse of monies can be challenging.

Whilst personal budgets/Direct Payments are new to families with an EHC Plan, other parts of the Early Intervention, SEND and Inclusion service currently work much more frequently with direct payments. The Aiming High programme, for example, works entirely through direct payments and has in place a contract which details the information which will be required from the service user. This is a contract which can be adopted within the EHC Plan process and given to service users. A benchmarking review which was carried out by Internal Audit identified the following as good practice for the monitoring of SEND direct payments:

- The direct payment should be monitored every three months within the first year of the provision. If the service user is managing their direct payment appropriately then monitoring may be reduced to annually after the first annual review.
- The service user should be contacted requesting bank statements and any supporting evidence or documents.
- The service user should understand all additional information which must be provided in order to undertake effective monitoring. This should include:
  - Time sheets and receipts for and cheque payments made to carers;
  - Supporting invoices for all other cheque payments;
  - Cash and card payments must be supported by receipts
  - All of the above should be readily available for the Council's monitoring purposes at any point whilst the service user is in receipt of Direct Payments.
- If the officer cannot gather monitoring information, a reminder letter should be sent to the service user and there should be a clear escalation route in place.
- At the end of the 3 months/at year-end, an audit of the Direct Payment account should be undertaken and any underspends should be recovered. This review should determine that the funds have been spent in line with the individuals assessed needs
- In order to avoid debt to providers, officers should liaise with service users, their agents or support organisations and keep the team leader informed.
- Any suspected fraud should be reported to Internal Audit as well as being flagged to senior management and recorded appropriately.

Given that these processes are already in place elsewhere in People's services, it may be beneficial to explore opportunities to share resources and consolidate direct payment monitoring across the Directorate, if possible.

Part of the scope of this review was to establish the parameters of what SEND Direct Payments can cover. However, from a review of both national legislation and policies of other Councils, it was established that there are no real defined rules for what can be included. Anything which is detailed in EHC plans can be paid for through a Direct Payment. In lieu of formal parameters, Internal Audit have conducted a review of what issues have repeatedly emerged at other LGSS authorities, which will help secure best practice of the administration of Direct Payments:

### **Breakdown of Costing:**

One of the main issues across other LGSS sites is that there is not sufficient breakdown of costings in EHC Plans. This would make it easier to challenge any inappropriate spends.

The use of such broad categories of expenditure, without providing detail of specific costs that may be covered, should be challenged when Direct Payments are set up. An EHC plan detailing information on how the direct payments are being spent, including a clear breakdown of costings, provides more certainty for service users and allows monitoring officers to pick up errors more easily and to challenge inappropriate expenditure. EHC plans should not just detail an overview of the spend, such as 'live in carer' or 'formal carer to support', but should have a break-down of what specifically the Direct Payment is being spent on, including a rate per hour and number of hours worked per week. This will give officers monitoring the payment the opportunity to fully understand where money should be being spent, meaning any errors can easily be picked up.

The importance of the breakdown of costing should also be emphasised when requesting monitoring information from Service Users. It has been found that, often at other local authorities, there is basic information and bank statements provided to the Council to enable some monitoring to take place. However, due to a lack of Service User understanding, often this information has not been enough to enable adequate monitoring. Ensuring that all payments made, regardless of method or aspect of care being paid for, are recorded appropriately and have accompanying receipts or invoices is vital to ensure accurate monitoring.

### **Evidence of agreement:**

A further issue which has been identified throughout the course of the previous audits of Direct Payments across LGSS is ensuring that EHC plans and all supporting documents are signed by the service user and the appropriate social worker or case officer. This will give a good assurance that service users have seen and have agreed to spend their direct payments on what has been detailed. This would make it easier to challenge any potentially inappropriate expenditure. The agreement should also detail who will be managing the Direct Payment, which is particularly important within the SEND service as it is less likely to be the service user (unless the child is 16 or 17 and has the cognitive ability to do so) and so it needs to be made clear who will be in charge of the Direct Payments so that the Council can gather monitoring information from the correct person.

### **Suspected fraud or misuse of Direct Payments**

Given the nature of Direct Payments, there should be clear processes in place for the reporting of suspected fraud or potential misuse of fraud. Instilling a confidence in case officers and monitoring officers to raise questions when they have suspicions around the use of a Direct Payment will help to ensure that the Council is aware of all issues from early on. A formal policy document should be drafted which should cover the following steps in the event of a suspected fraud or misuse of a payment:

- Reporting of suspected fraud to Internal Audit;
- Initial investigation work should be undertaken by the officer monitoring the payment. All receipts should be requested and a full reconciliation should be undertaken;
- An escalation process which dictates who officers should raise their concerns to;
- Additional monitoring which should be undertaken for accounts where there has been a suspicion of fraud; and
- Guidance around warning signs such as high levels of cash and cheque payments.

### **7. Action Plan**

The Action Plan at appendix 1 includes two recommendations to address the findings identified by this review. If accepted and implemented, these should positively improve the control environment and aid the Council in effectively managing its risks.

### **8. Limitations to the scope of the audit**

This is a consultancy review and an opinion is therefore not provided on the effectiveness of the Council's arrangements. The Auditor's work does not provide any guarantee against material errors, loss or fraud. It does not provide absolute assurance that material error, loss or fraud does not exist.

## Appendix 1

### ACTION PLAN

| Rec No. | ISSUE  | RECOMMENDATION  | Management Comments  | Priority              | Officer Responsible  | Due date  |
|---------|--|---|--|-----------------------|--|---|
| 1       | <p>There is currently limited promotion of Direct Payments within the EHC planning process.</p> <p>Currently, only one service user with an EHCP is working with a fully costed personal budget and receiving direct payments in this way. In order to increase this method of delivery of the provision of services, knowledge around the area must be increased as much as possible.</p> | <p>Internal Audit have attached a personal budget/direct payment fact sheet which will act as a source of information for service users. This document should be adapted as necessary to best reflect the service needs and then incorporated into the Council's local offer on the external internet page.</p> <p>This document should also be used by SEND case officers during the annual review of EHC plans to further explain the options available to service users.</p> | <p>The national and regional guidance on PB for parents is been researched so that we gather best practice.</p> <p>Once this is agreed locally for Rutland, it will be published on the Local Offer site and given to Case Officers to include in the information pack to parents.</p> <p>Officers with the RPCV will deliver a workshop for parents to introduce PBs - their purpose and conditions of use.</p> | <p>●<br/>Standard</p> | <p>Lesley Hawkes</p> <p>Lesley Hawkes</p> <p>Lesley Hawkes</p> | <p>By end of February 2018</p> <p>March 2018</p> <p>By end of June 2018</p> |

| Rec No. | ISSUE  | RECOMMENDATION   | Management Comments  | Priority                  | Officer Responsible                                      | Due date  |
|---------|--|--|--|---------------------------|--|---|
| 2       | As the EHC part of the service is new to providing Direct Payments, there is currently no formal monitoring process in place. Given that, until now, there has only been one Personal Budget in place, having an ad hoc process in place has not been considered an issue, however moving forward, a more widely used service will require wider monitoring. | <p>A formal monitoring process should be established which will act as a guidance document to officers for how to review Direct Payments.</p> <p>Opportunities to share good practice and potentially centralise direct payment monitoring across the People Directorate should be explored.</p> | <p>Agree and publish the Rutland Statement of our offer for children with disabilities in Rutland and our eligibility criteria for services.</p> <p>Trial use of monitoring and tracking of payments in CWD once additional capacity identified post BSR</p> <p>Trial use of payment Cards with Adult services</p> | <p>●</p> <p>Important</p> | <p>B Caffrey</p> <p>Kevin Quinn</p> <p>Lesley Hawkes</p> | <p>March 2018</p> <p>March 2018</p> <p>May 2018</p> |

**PERSONAL BUDGET/DIRECT PAYMENT FACT SHEET FOR SERVICE USERS**

**What is a Personal Budget?**

A Personal Budget for children and young people with SEND is money identified to fund support and services identified in a child's **Education, Health and Care plan (EHC plan)** for a child or young person with special educational needs. It can include funds from Education, Health and Social Care interventions and services.

Parents or the young person must always be involved in planning the Personal Budget as part of their assessment and review process.

Sometimes the local authority, school or college will look after the Personal Budget for the parents or young person. This is called an *Arrangement* or a *Notional Budget*.

**Who can have a Personal Budget?**

Parents of a child with an EHC plan, or a young person who has an EHC plan, can ask for a Personal Budget. You can also ask for a Personal Budget if your child has been assessed as needing an EHC plan, but this has not yet been finalised. However you do not have to have a Personal Budget.

A young person with an EHC plan can ask for their own Personal Budget after the end of the school year in which they become 16.

Sometimes the local authority may not agree to a Personal Budget. If that happens, the local authority should tell you why.

**What is a Direct Payment?**

Sometimes the parents or the young person may manage all or part of the Personal Budget themselves. The money to do this will come from a **Direct Payment**.

A Direct Payment is an alternative to receiving a service directly provided by or arranged by the Local Authority or Health service.

A Direct Payment gives you more choice, control and flexibility in arranging and purchasing services that meet your child's needs.

As a parent you can manage the Direct Payment on your child's behalf. Sometimes someone else will manage the Personal Budget for the parents or young person. This is called a *Third Party Arrangement*.

Sometimes the parent or young person will have a mixture of some or all of these arrangements.

### **What is the difference between a Personal Budget and a Direct Payment?**

A Personal Budget shows you what money there is to make some of the provision specified in an EHC plan, and who provides it. The parent or young person does not actually manage the funds directly.

With a Direct Payment the parent or young person is given the money for some services and manages the funds themselves. The parent or young person is responsible for buying the service and paying for it.

A Personal Budget can include a Direct Payment if it is agreed that this is the best way to manage part of the Personal Budget.

Direct payments can be used for special educational provision only if the school or college agree.

### **How is it decided how much money I get?**

To receive Direct Payments you will have had an assessment and agreement that your child meets the eligibility criteria. How much you get will depend on what has been set out in the EHC plan. So it will vary from one person to another.

If the local authority has agreed to make a Direct Payment it must be enough to pay for the service or services specified in the EHC plan.

### **What can a Personal Budget be used for?**

A Personal Budget can be used only to meet the needs and outcomes as set out in your EHC plan. It can be used for:

- Providing assistance with personal care by employing your own care workers/ personal assistants.
- Contracting with an agency.
- Buying equipment agreed and identified through the assessment.
- Assistance to purchase short breaks (respite).
- Assistance with essential domestic care tasks, which are essential to meet the assessed needs of the child and is evidenced in your overall care plan.
- Assistance to access facilities or activities to promote social inclusion.
- Assistance with initial start-up costs, such as advertising.
- It is accepted that no two children or family are the same and as such the above list is not exhaustive. Government guidance to Social Care services states that “by exploring innovative and creative options, people should be encouraged to identify alternatives that meet their needs more effectively”. So don’t be afraid to suggest to your Social Worker or Case Officer ways that Direct Payments could be better used to meet your child’s needs.
- To support your child’s independence and preparing them for adulthood.

A personal budget cannot be used:

- To buy permanent residential care.
- To purchase any residential care (excluding specialist activity holidays)
- To purchase overnight short break respite outside of the family home without the express permission of your Social Care Team/Unit.
- To buy services owned by any Local Authority.
- To buy health-related services or equipment that should be provided by the NHS, unless a health personalised budget is in place to facilitate this.
- To make major adaptations to your home that would come under the Disabled Facilities Grant.
- To employ a partner or a close relative who lives in the same household unless Social Care Services are satisfied that someone's needs could not be met any other way.
- Section 79D of the 1989 Children Act states that anyone caring for a child under the age of 8 for over two hours a day for payment in their own home has to be registered with Ofsted as a childminder.

A Personal Budget does not cover payment for a place at the school or college, or the general provision for children or young people, including those who need **SEN Support**. It can also include support that is managed by the school or college – but only if the Head teacher or Principal agree.

You can find out more about what can be included in a Personal Budget in Sections 9.110 to 9.118 of the **SEND Code of Practice\***.

#### **Do I need to contribute towards the Direct Payment?**

No, the Local Authority does not financially assess parents/carers before agreeing Direct Payments and services, it is determined by the child's needs set out in the EHC Plan. You may choose to purchase additional services or top up your Direct Payment to purchase a more expensive service than your direct payment allows if you wish.

#### **My Direct Payment isn't enough to purchase what I need - What can I do?**

You need to speak to your Social Worker/Case Officer and discuss whether a reassessment of your child's needs is appropriate. This may then result in an increase in the personal budget or you may be able to contribute to the cost if you wish to arrange additional services beyond that within the EHC plan.

#### **How long does my Direct Payment last?**

Unless otherwise stated your Direct Payment will be for twelve months.

#### **What happens if I don't spend my Direct Payment within the twelve months?**



**Rutland**  
County Council

If you don't spend the Direct Payment within the allocated twelve months we will either readjust your next allocation to reflect this or reclaim the unspent money.

**How will my Direct Payment be paid?**

If the Direct Payment is less than £3000 a year this will normally be paid as an annual lump sum. If the Direct Payment is in excess of £3000 a year it will normally be paid in monthly instalments. Each individual plan will be looked at in isolation to put together a suitable payment schedule.

## GLOSSARY

### Category of Recommendations

The Auditor prioritises recommendations to give management an indication of their importance and how urgent it is that they be implemented. By implementing recommendations made managers can mitigate risks to the achievement of service objectives for the area(s) covered by the assignment.

| Priority           | Impact & Timescale  |
|--------------------|---|
| <b>Essential</b> ● | Action is imperative to ensure that the objectives for the area under review are met.         |
| <b>Important</b> ● | Requires actions to avoid exposure to significant risks in achieving objectives for the area. |
| <b>Standard</b> ●  | Action recommended to enhance control or improve operational efficiency.                      |